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| 10/766,123      | 01/28/2004  | Leen Holleman        | 11953-1960          | 2104             |

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EXAMINER

PARSLEY, DAVID J

ART UNIT PAPER NUMBER

3643

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/766,123

Applicant(s)

HOLLEMAN, LEEN

Examiner

David J. Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 12, 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9, 11 and 12 is/are allowed.
- 6) ☒ Claim(s) 14 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **Detailed Action**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2-16-06 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No.

5,569,069 to Horst et al.

Referring to claim 14, Horst et al. discloses a method of partially deboning a plurality of right poultry wings and left poultry wings, the right poultry wings removed from the right side of a poultry carcass and the left poultry wings removed from the left side of a poultry carcass – see figure 2, each of the right and left poultry wings having an inside surface that faced a poultry

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carcass – see figure 2, and an outside surface that faced away from a poultry carcass – see figure 2, a primary segment that was separated from a poultry carcass with a bone extending longitudinally therethrough – see figures 1-2 and column 2 lines 52-67 and column 3 lines 1-63, and a mid-wing segment having a pair of bones extending longitudinally therethrough that are joined to the bone of the primary segment – see figures 1-2, column 2 lines 52-67, column 3 lines 1-67 and column 4 lines 1-16, advancing the wings in sequence along a processing path with the outside of the right wings facing one side of the processing path and with the outside surfaces of the left wings facing in the same direction as the outside surfaces of the right wings – see figures 1-2, and with the joints between the segments of the right wings facing oppositely to the joints between the segments of the left wings – see figures 1-2, as the wings are advanced bending the primary segments of both right and left wings with respect to the mid-wing segments at the elbow joints about an elbow guide – at 114, positioned on the outside surface so the poultry wings until the elbow joints are opened – see figures 1-2, column 3 lines 50-67 and column 4 lines 1-16, and separating the tissue extending between the primary segments and the mid-wing segments at the elbow joints and to separate the primary wing segments from the mid-wing segments at the elbow joints – see figures 1-2, column 3 lines 50-67 and column 4 lines 1-16.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horst et al. as applied to claim 14 above, and further in view of U.S. Patent No. 5,494,479 to Lindert et al.

Referring to claim 15, Horst et al. does not disclose after the primary wing segment has been separated from the mid-wing segment, moving the pair of bones of the mid-wing segment laterally and as the pair of bones are moved laterally popping the bones of the mid-wing segment laterally from the mid-wing segment such that the end of the bones popped from the mid-wing segment are exposed. Lindert et al. does disclose after the primary wing segment has been separated from the mid-wing segment – see figure 5, moving the pair of bones of the mid-wing segment – at 11, laterally and as the pair of bones are moved laterally popping the bones of the mid-wing segment laterally from the mid-wing segment such that the end of the bones popped from the mid-wing segment are exposed – see figures 6a, 7a and 8a. Therefore it would have been obvious to one of ordinary skill in the art to take the method of Horst et al. and add the removing of the bones of the mid-wing segment of Lindert et al., so as to allow for the meat product to be made more appealing to a consumer in that the bones of the meat would not have to be removed by the consumer during preparation of the meat product for consumption.

***Allowable Subject Matter***

4. Claims 1-9 and 11-12 are allowed.

***Response to Arguments***

5. Applicant's arguments with respect to claims 14-15 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to poultry wing processing device/methods in general:

U.S. Pat. No. 4,207,653 to Gasbarro – shows wing-cutting device

U.S. Pat. No. 4,577,368 to Hazenbroek – shows wing-cutting device

U.S. Pat. No. 4,780,930 to Sparkia – shows poultry cutting device

U.S. Pat. No. 5,496,210 to Davis – shows wing-processing device

U.S. Pat. No. 6,277,020 to Stephens – shows poultry processing device

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on Monday-Friday from 8am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley  
Patent Examiner  
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